

## **REMARKS/ARGUMENTS**

### **Priority Claim**

As an initial matter, the Office Action mailed August 3, 2004 objected to the specification. Although the present application is acknowledged as a continuation application, the Office Action suggested amending the specification to indicate the application's status as a continuation of U.S. Serial No. 09/790,231. Applicant respectfully refers the Examiner to Page 2 of the Preliminary Amendment filed on November 25, 2003 with the application, wherein Applicant amended the specification to indicate that the application is a continuation of U.S. Serial No. 09/790,231, filed February 21, 2001.

### **Status of Application**

In the Office Action mailed August 3, 2004, each of the independent claims were rejected under §102(e) as being anticipated by U.S. Patent No. 6,254,483 to Acres.

In the above amendments, claims 78, 81, 84, 94, 106, 117 and 127 have been amended. In view of above amendments and the following remarks, reconsideration of the application is respectfully requested.

### **Acres §102 Rejection**

#### **Claims 78-90**

Independent claim 78 includes, *inter alia*, the following recitation:

a time generator that generates a time signal indicative of a time of day; ...

the controller being programmed to replace at least one of the available video gambling games in response to the time signal,

As should be apparent from the plain language of independent claim 78, claim 78 is directed to a gaming unit having a time generator that generates a time signal indicative of a time of day and a controller that is programmed to replace one of the available video gambling games in response to the time signal.

The Acres patent generally discloses changing a configuration parameter in an electronic gaming machine in response to a predetermined criterion of a monitored variable. (col. 6, ll. 13-62). The configuration parameter includes payback percentages (col. 7, ll. 32-37), accrual of wagers in a bonus pool (col. 8, ll. 14-19), and game speed (col. 8, ln. 66). The monitored variables include the rate at which the machines are played (col. 6, ll. 13-19), the time that the machines are played (col. 6, ll. 20-28) and the status of a player of one of the machines (col. 6, ll. 29-38). The predetermined criterion relates to one of the above variables. (col. 6, ll. 39-40). For example, predetermined criterion relating to time includes the time of day, week or year. (col. 6, ll. 51-54). On the other hand, predetermined criterion such as the level of player play, the level of money wagered and the rate of money wagered relates to the player status. (col. 6, ll. 40-50). When the monitored variable meets the predetermined criterion, a configuration parameter is changed. (col. 6, ll. 57-62). For example, when a particular time of week occurs, the payback percentages may be changed. (col. 7, ln. 32 to col. 8, ln. 13). In an alternative example, the Acres patent discloses varying the amount of money allocated to a bonus pool in order to vary the payback percentage, with bonuses turned on and off depending on the predetermined time period. (col. 8, ll. 14-35). The Acres patent also mentions that it is desirable to change the sound effects and appearance of the machine in response to time, rate of game play or player status, although the Acres patent does not provide any further detail. (Col. 3, ll. 15-20).

However, nowhere in the Acres patent does it appear to disclose or suggest replacing an available video gambling game in response to the time signal. The Office Action states that various game parameters of the Acres patent are changed based upon a time signal, and that examples of such game parameters include rate of game play, wagering level, sound level, appearance, a bonus game, payback percentage and maintenance. (Office Action 8/3/04, p.2, ¶ 3 to p. 3). However, rate of game play and wagering levels in the Acres patent are monitored variables which may be used to change game parameters, just as time is a monitored variable. The rate of game play and wagering levels are not game parameters that are changed in response to time. Further, the Acres patent mentions changing payback percentages, accrual of wagers in a bonus pool, and game speed in response to time. The Acres patent also mentions that it is desirable to change sound effects and appearance with time, though Acres does not provide further detail. However, none of these configuration parameters relate to replacing an available video gaming game in response to time.

Therefore, it is respectfully submitted that claim 78, and claims 79-90 which respectively depend therefrom, are allowable over Acres.

#### **Claims 91-102**

Independent claim 91 is directed to a gaming unit that includes (1) a time generator that generates a time signal indicative of a time of day, and (2) a controller programmed to change a **minimum bet** for the video gambling game in response to the time signal. It is respectfully submitted that the Acres patent does not appear to disclose or suggest a gaming unit that includes changing a minimum bet for a game in response to a time signal.

As discussed in greater detail above with respect to claim 78, the Acres patent appears to disclose changing particular configuration parameters (e.g., payback percentages, accrual of wagers in a bonus pool, game speed, etc.) in response to time. However, none of the configuration parameters disclosed by the Acres patent relate to a minimum bet. The Acres patent discloses turning the accrual of wagers in a bonus pool on and off with respect to time, but such accrual merely affects the size of the bonus pool by changing the percentage of wagers allocated to the bonus pool. The accrual of wagers does not appear to affect the minimum bet for the game. Further, the allocation of money to a bonus pool is an alternative way to change payback percentages (col. 8, ll. 10-35), and does not relate to changing a minimum bet. Therefore, it is respectfully submitted that claim 91, and claims 92-102 which depend therefrom, are allowable over Acres.

#### **Claims 103-113**

Independent claim 103 is directed to a gaming unit that includes (1) a time generator that generates a time signal indicative of a time of day, and (2) a controller programmed to change a **denomination for the deposit of currency** for the video gambling game in response to the time signal. It is respectfully submitted that the Acres patent does not appear to disclose or suggest a gaming unit that includes changing a denomination for the deposit of currency for a game in response to a time signal.

As discussed in greater detail above with respect to claim 91, the Acres patent appears to disclose changing particular configuration parameters (e.g., payback percentages, accrual of wagers in a bonus pool, game speed, etc.) in response to time. Although the Acres patent discloses turning the accrual of wagers in a bonus pool on and off with respect to time, such

accrual affects the size of the bonus pool, but does not affect the denomination for the deposit of currency for a game. Further, the allocation of money to a bonus pool is an alternative way to change payback percentages (col. 8, ll. 10-35), and does not relate to changing a denomination for the deposit of currency. Therefore, it is respectfully submitted that claim 103, and claims 104-113 which depend therefrom, are allowable over Acres.

#### **Claims 114-123**

Independent claim 114 is directed to a gaming unit that includes (1) a time generator that generates a time signal indicative of a time of day, and (2) a controller programmed to change a **maintenance schedule** of the gaming unit in response to the time signal. It is respectfully submitted that the Acres patent does not appear to disclose or suggest a gaming unit that includes changing a maintenance schedule in response to a time signal.

The Office Action asserts that maintenance is any period of time where game parameters are changed. However, the Office Action's definition of maintenance does not appear to have a basis in the Acres patent, nor does the definition have a basis in the present application. Moreover, the Acres patent does not appear to disclose any aspect of maintenance, much less a maintenance schedule. The Acres patent discloses changing configuration parameters (e.g., payback percentages, accrual of wagers in a bonus pool, game speed, etc.) with time, but the Acres patent does not appear to disclose a maintenance schedule as one of the configuration parameters. As such, it is respectfully submitted that claim 114, and claims 115-123 which depend therefrom, are allowable over Acres.

#### **Claims 124-132**

Independent claim 124 is directed to a gaming unit that includes (1) a time generator that generates a time signal indicative of a time of day, and (2) a controller programmed to replace a **first available bonus game** for a **second available bonus game** in response to the time signal. It is respectfully submitted that the Acres patent does not appear to disclose or suggest a gaming unit that includes changing available bonus games in response to a time signal.

As discussed in greater detail above, the Acres patent appears to only disclose changing particular configuration parameters in response to time. The Office Action asserts that Acres discloses a bonus game as a game parameter that may be changed based on time.

However, the Acres patent merely discloses turning the allocation of money to a bonus pool on and off in response to the predetermined time period. The Acres patent does not appear to teach multiple bonus games or turning a single bonus game on and off, let alone replacing a first bonus game with a second bonus game. Rather, it is an adjustment to the allocation of money to a bonus pool, and is not a replacement of the bonus game itself. Therefore, it is respectfully submitted that claim 124, and claims 125-132 which depend therefrom, are allowable over Acres.

### Conclusion

In view of the foregoing, it is respectfully submitted that the above application is in condition for allowance. If there is any matter that the Examiner would like to discuss, he is invited to contact the undersigned representative at the telephone number set forth below.

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Respectfully submitted,

By: 

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